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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,600	02/19/2004	Philip M. Waldorf	25062.0002	3161
23517	7590	08/06/2004	EXAMINER	
SWIDLER BERLIN SHEREFF FRIEDMAN, LLP			NGUYEN, CHAU N	
3000 K STREET, NW			ART UNIT	
BOX IP			PAPER NUMBER	
WASHINGTON, DC 20007			2831	

DATE MAILED: 08/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/780,600

Applicant(s)

WALDORF ET AL.

OK

Examiner

Chau N Nguyen

Art Unit

2831

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/19/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burdick (5,850,808) in view of Altermatt et al. (4,861,947).

Burdick discloses an anti-roosting device (Figs 1 and 2) comprising an elongate track, an electrical conductor (14, 16, 18) at least partially embedded within the track, and an electrical source operatively coupled to the electrical conductor. Burdick does not disclose the electrical conductor including a plurality of wires around a rope. Altermatt et al. discloses an electrical conductor comprising a plurality of wires around a rope (Figure 1). It would have been obvious to one skilled in the art to use the electrical conductor as taught by Altermatt et al. for the conductor of Burdick since the

Art Unit: 2831

conductor taught by Altermatt et al. provides both electrical properties and strength.

The modified device of Burdick also discloses the conductor including 5 or 9 wires around the rope (re claims 2-4), the rope comprising a substantially nonconductive material (re claim 5), the conductor being generally circular in cross-section and having a diameter of approximately 0.125 to approximately 0.175 inches (see Burdick, col. 2, line 65) (re claim 6), the track including a channel (20) sized to substantially embed the conductor while leaving a portion thereof exposed (re claim 7), the channel sized to leave from about 10% to about 20% (Figure 2b) of the conductor exposed (re claims 8 and 9), the track including a second channel for a second conductor (re claim 10), the channels being substantially parallel to a longitudinal axis of the track (re claim 11), the track including a flat side opposite the exposed conductor (re claim 13), the second conductor including wires around a rope (re claim 14), the electrical source being designed to provide low amperage at high voltage to the conductor (re claim 15), the source providing about 3 to 6 amps at about 4000 to 8000 volts to the conductors (col. 4, lines 39-40) (re claim 16), the source being a direct current source or an alternate current source (re claims 17 and 18). Re claim 12, it would have been obvious to one skilled in the art to provide a plurality

of holes (at the bottom 48, between channels 20 and 24) in the track of Burdick for facilitating attachment of the track to an object (50) since providing holes in a track for facilitating attachment of the track to an object is known in the art.

Cited Art

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bramley and Kelly, Jr. disclose conductor having wires around a rope. Black et al. and Crist disclose anti-roosting devices.

Communication

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chau N Nguyen whose telephone number is 571-272-1980. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on 571-272-2800 ext 31. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2831

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Chau N Nguyen", with a stylized, cursive script.

Chau N Nguyen
Primary Examiner
Art Unit 2831